

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD LOUIS BROWN,

Plaintiff,

v.

SEIU LOCAL 1000, *et al.*,

Defendants.

Case No. 2:24-cv-3276-DJC-JDP (PS)

ORDER

Plaintiff brings this action against defendants SEIU Local 1000, Service Employees International Union, and the California State Employees Association, alleging defendants violated his rights by improperly removing him from his position as president of SEIU Local 1000. As articulated, the complaint fails to put defendants on notice of the specific claims against them, and so does not comply with the federal rules. I will give plaintiff leave to file an amended complaint that better explains the factual basis for his claims. I will also grant his application to proceed *in forma pauperis*, ECF No. 2, which makes the showing required by 28 U.S.C. §§ 1915(a)(1) and (2).

Screening and Pleading Requirements

A federal court must screen the complaint of any claimant seeking permission to proceed *in forma pauperis*. See 28 U.S.C. § 1915(e). The court must identify any cognizable claims and dismiss any portion of the complaint that is frivolous or malicious, fails to state a claim upon

1 which relief may be granted, or seeks monetary relief from a defendant who is immune from such
2 relief. *Id.*

3 A complaint must contain a short and plain statement that plaintiff is entitled to relief,
4 Fed. R. Civ. P. 8(a)(2), and provide “enough facts to state a claim to relief that is plausible on its
5 face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The plausibility standard does not
6 require detailed allegations, but legal conclusions do not suffice. *See Ashcroft v. Iqbal*, 556 U.S.
7 662, 678 (2009). If the allegations “do not permit the court to infer more than the mere
8 possibility of misconduct,” the complaint states no claim. *Id.* at 679. The complaint need not
9 identify “a precise legal theory.” *Kobold v. Good Samaritan Reg’l Med. Ctr.*, 832 F.3d 1024,
10 1038 (9th Cir. 2016). Instead, what plaintiff must state is a “claim”—a set of “allegations that
11 give rise to an enforceable right to relief.” *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1264
12 n.2 (9th Cir. 2006) (en banc) (citations omitted).

13 The court must construe a pro se litigant’s complaint liberally. *See Haines v. Kerner*, 404
14 U.S. 519, 520 (1972) (per curiam). The court may dismiss a pro se litigant’s complaint “if it
15 appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which
16 would entitle him to relief.” *Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 1208 (9th Cir. 2017).
17 However, “‘a liberal interpretation of a civil rights complaint may not supply essential elements
18 of the claim that were not initially pled.’” *Bruns v. Nat’l Credit Union Admin.*, 122 F.3d 1251,
19 1257 (9th Cir. 1997) (quoting *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)).

20 **Analysis**

21 The complaint contains limited allegations that are insufficient to state a claim. Plaintiff
22 alleges that defendants violated his rights under the First, Eighth, Fourteenth, and Fifteenth
23 Amendments by removing him as president of SEIU Local 1000. ECF No. 1 at 5.
24 He contends that the removal decision was racially motivated and violated his rights to free
25 speech and equal protection. *Id.* He also claims that he was denied his right “to have his lawsuit
26 heard by a requested jury trial” and that he was subjected to cruel and unusual punishment by
27 being ordered “to pay an Anti-Slapp award that violated his freedom of speech” *Id.*

1 These allegations are too vague and conclusory to provide defendants with adequate
2 notice of the factual basis for each of plaintiff's claims. *See Jones v. Cmty. Redev. Agency*, 733
3 F.2d 646, 649 (9th Cir. 1984) ("The plaintiff must allege with at least some degree of particularity
4 overt acts which defendants engaged in that support the plaintiff's claim.") (quotations omitted).
5 More fundamentally, plaintiff's allegations are insufficient to state a claim for violation of his
6 constitutional rights under 42 U.S.C. § 1983. To state a section 1983 claim, a plaintiff must show
7 that a defendant acting under color of state law caused an alleged deprivation of a right secured
8 by federal law. *See* 42 U.S.C. § 1983; *Soo Park v. Thompson*, 851 F.3d 910, 921 (9th Cir. 2017).
9 "The traditional definition of acting under color of state law requires that the defendant in a
10 § 1983 action have exercised power 'possessed by virtue of state law and made possible only
11 because the wrongdoer is clothed with the authority of state law.'" *West v. Atkins*, 487 U.S. 42,
12 49 (1988) (quoting *United States v. Classic*, 313 U.S. 299, 326 (1941)). Plaintiff's complaint
13 contains no allegations suggesting defendants are state actors.

14 Accordingly, plaintiff's complaint is dismissed for failure to state a claim. I will allow
15 plaintiff a chance to amend his complaint before recommending that this action be dismissed.
16 Plaintiff should also take care to add specific factual allegations against each defendant. If
17 plaintiff decides to file an amended complaint, the amended complaint will supersede the current
18 one. *See Lacey v. Maricopa Cnty.*, 693 F.3d 896, 907 n.1 (9th Cir. 2012) (en banc). This means
19 that the amended complaint will need to be complete on its face without reference to the prior
20 pleading. *See* E.D. Cal. Local Rule 220. Once an amended complaint is filed, the current one no
21 longer serves any function. Therefore, in an amended complaint, as in the original, plaintiff will
22 need to assert each claim and allege each defendant's involvement in sufficient detail. The
23 amended complaint should be titled "First Amended Complaint" and refer to the appropriate case
24 number. If plaintiff does not file an amended complaint, I will recommend that this action be
25 dismissed.

26 Accordingly, it is hereby ORDERED that:

- 27 1. Plaintiff's request for leave to proceed *in forma pauperis*, ECF No. 2, is granted.
- 28 2. Plaintiff's complaint, ECF No. 1, is dismissed with leave to amend.


1 3. Within thirty days from service of this order, plaintiff shall file either (1) an amended
2 complaint or (2) notice of voluntary dismissal of this action without prejudice.

3 4. Failure to timely file either an amended complaint or notice of voluntary dismissal may
4 result in the imposition of sanctions, including a recommendation that this action be dismissed
5 with prejudice pursuant to Federal Rule of Civil Procedure 41(b).

6 5. The Clerk of Court shall send plaintiff a complaint form with this order.

7
8 IT IS SO ORDERED.

9 Dated: January 12, 2025


JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE